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OFFICE OF PETITIONS

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

In re Patent No. 7,597,702	:	DECISION ON REQUEST
Eidenschink	:	FOR
Issue Date: October 6, 2009	:	RECONSIDERATION OF
Application No. 10/663,641	:	PATENT TERM
Filed: September 17, 2003	:	ADJUSTMENT and
Atty Docket No. S63.2-11019-US01	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 4, 2009, which is being treated as a timely filed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by either one thousand, seven hundred and seventy-three (1773) days or in the alternative, one thousand, five hundred and fifty-four (1554) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, five hundred and fifty-three (1553) days is **GRANTED to the extent indicated herein.**

A notice of appeal was filed on July 2, 2008 and a non-final Office action was subsequently mailed on February 6, 2009. The 220 (not 219 days as calculated by Petitioner) days of the over three year period consumed by appellate review, beginning on July 2, 2008 and ending on February 6, 2009, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

As such, the patent term adjustment is increased by 1553 (1115 "B-delay" minus the aforementioned excluded 220 days minus the overlapping 383 days between the three-year anniversary and the

mailing of a notification under 35 U.S.C. § 132 and the overlapping 50 days associated with the mailing of a non-final Office action on February 6, 2009) days, not 1773 or 1554 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, five hundred and fifty-three (1553) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanowski at (571) 272-3225.



Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,597,702 B2

DATED : October 6, 2009

DRAFT

INVENTOR(S) : Eidenschink et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1104 days

Delete the phrase "by 1104 days" and insert – by 1553 days--